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**FISCAL IMPACT STATEMENT**

**LS 6929**

**BILL NUMBER:** HB 1196

**NOTE PREPARED:** Feb 22, 2008

**BILL AMENDED:** Feb 21, 2008

**SUBJECT:** Various Election Law Matters.

**FIRST AUTHOR:** Rep. Pierce

**FIRST SPONSOR:** Sen. Landske

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill makes the following changes in election law:

*Military or College ID-* The bill provides that an identification document issued by the Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana National Guard that has an indefinite expiration date, or an identification issued by an approved institution of higher learning-is an acceptable proof of identification to vote.

*Voter Registration Workers-* The bill provides that certain individuals under the supervision of the criminal justice system may not be employed by a county board of voter registration.

*Voting While Under Lawful Detention-* The bill provides that a person who is subject to lawful detention but has not been convicted of a crime is eligible to register and vote until the person has been convicted of a crime and imprisoned following conviction.

*Poll Clerks and Assistant Poll Clerks Checking Voter ID-* The bill provides that poll clerks and assistant poll clerks may ask a voter to show proof of identification.

*Carrier Envelopes-* The bill permits all absentee ballot envelopes and related voter applications that will be sent to the same precinct to be enclosed in the same carrier envelope.

*Beginning Date of Absentee Voting-* The bill makes the beginning date of absentee voting in the clerk's office or a satellite office one day later than under current law.

*Treasurer of State-* The bill provides that an individual elected Treasurer of State (TOS) takes office January 1 following the individual's election. The bill provides that the individual elected TOS at the 2006 election vests as a member of PERF if the individual is reelected as treasurer of state at the 2010 election and serves in office until January 1, 2015.

*State Officer PERF Vested Status-* The bill establishes 65 years of age with at least eight years of creditable service as the normal retirement age for a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana.

*Power of Secretary of State to Investigate-* The bill authorizes the Secretary of State (SOS) to conduct public or private investigations: (A) to determine whether a violation of Indiana election law has occurred, is occurring, or is about to occur; and (B) to aid in the enforcement of Indiana election law. The bill gives the SOS certain investigative powers, including the power to issue subpoenas and conduct depositions.

*Attorney General Assists Secretary of State-* The bill requires the Attorney General (AG) to provide legal assistance to the SOS.

*Assistance to Referred Agencies or Prosecutors-* The bill requires the SOS, upon request, to provide all necessary and reasonable assistance to the agency or the prosecuting attorney to which investigation results are referred.

*Report to SOS on Referral-* The bill requires the agency or prosecuting attorney receiving a referral from the SOS to report to the SOS not later than the earlier of: (A) 180 days after the referral; or (B) the sixtieth day before the statute of limitations expires on a violation that was referred; the decision as to whether to take further action on the referral.

*Increase in Election Law Criminal Penalties-* The bill changes the classification of certain crimes relating to elections from a Class D felony to a Class C felony.

*Eligibility Affidavits-* The bill requires a county election board (CEB) to mail to the SOS not later than 60 days after election day a copy of each affidavit executed at a polling place concerning the eligibility of voters or precinct election officers.

*School Board Election at General Election-* The bill requires that school board members selected by election must be elected at general elections. The bill repeals obsolete statutes.

*Vote Centers-* The bill establishes the use of vote centers as an option for all counties. The bill requires the board to approve an order designating the county a vote center county, adopt a plan to administer the vote centers, and file the order and the plan with the Election Division. The bill provides that designation of a county as a vote center county remains in effect until the board rescinds the order designating the county as a vote center county and files a copy of the rescission with the Election Division.

*Alternate Polling Places-* The bill requires the CEB to establish at least one alternate polling place at a central location in the jurisdiction in which an election will be held for use in the event that voters are unable to vote in their assigned polling place because the polls do not open within one hour after the time required. The bill requires that at least one alternate polling place be established in each township included in the jurisdiction in which the election will be held, if the jurisdiction has at least 25,000 active voters. The bill requires that: (1) an alternate polling place be operated under the requirements for precincts and polls; and

(2) votes cast at an alternate polling place be counted and reported in the same manner as if the votes had been cast at the polls that did not open.

*Vote Center Pilot County Redesignation-* The bill redesignates automatically as a vote center county a county designated before July 1, 2008, as a vote center pilot county. The bill allows the SOS to designate not later than March 15, 2008, one additional county as a vote center pilot county. The bill repeals the expiration date of the vote center program and provisions that: (A) require the SOS's approval of the vote center designation; and (B) allow the secretary to revoke the vote center designation.

**Effective Date:** (Amended) January 1, 2008 (retroactive); Upon passage; July 1, 2008; January 1, 2009.

**Explanation of State Expenditures:** *Treasurer of State Office Date-* The provision could result in a minimal increase in administrative costs and expenditures for the Public Employees' Retirement Fund (PERF). Any increase in PERF expenditures would not be certain to occur until after the 2010 election. If the Treasurer of State is reelected at the 2010 election and serves until January 1, 2015, they would be considered vested in PERF and may be eligible for PERF benefit payments. If the Treasurer of State is not reelected in 2010, no impact to state expenditures would occur from this provision.

*State Officer PERF Vested Status-* The bill would allow a state officer (Auditor, Secretary of State, or Treasurer) whose term of office commenced after the 2002 general election to be eligible for normal retirement and vest in PERF if the state officer is 65 and served as a state officer for at least *eight* years, or was elected at least two times and would have served at least *eight* years had not a uniform date of term commencement shortened their term. If the state officer does not meet these criteria, then they could meet the retirement age and years of service criteria of the public retirement and disability benefits statute and vest in PERF. Were an elected state officer to become eligible for PERF benefits through the bill, PERF expenditures would increase by an indeterminable amount to pay for retirement benefits to qualifying former state officers. It is likely this provision would not present a significant increase to PERF expenditures.

Under current law, minimal service for a state employee to receive vested status is 10 years. The current public employees' retirement and disability age and years of service provisions are as follows in IC 5-10.2-4-1.

Retirement Type	Age and Years of Service
PERF members retiring before July 1, 1995; Teachers Retirement Fund (TRF) members retiring before May 2, 1989	Minimum Age: 65, Years of Service: at least 10
PERF Members retiring after June 30, 1995; TRF members retiring after May 1, 1989	Minimum Age: 65, Years of Service: at least 10; or Minimum Age: 60, Years of Service: at least 15; or Sum of Age and Years of Service equals 85 with minimum age of 55.
Early Retirement with reduced benefits	Minimum Age: 50, Years of Service: at least 15

(Revised) *Power of Secretary of State to Investigate-* This provision would place additional administrative

responsibilities on the SOS. The SOS would be able to implement these provisions within their existing level of resources. At the end of FY 2007, the SOS reverted \$42,178 to the state General Fund. The SOS reverted \$149,755 to the General Fund at the end of FY 2006.

If an investigation was initiated under the bill, the SOS would be able to issue subpoenas; question witnesses; require the filing of statements and other evidence; take depositions and transcribe witness testimony; investigate any machines, personal computers, or thing; and apply to a court to enforce a subpoena or any other investigative request.

Witnesses subpoenaed by the SOS would be able to receive fees and mileage as in civil cases. These expenses would be paid in the same manner as other expenses of the SOS.

(Revised) *Attorney General*- If the SOS were to request the assistance of the Attorney General, the AG would be required to give all necessary assistance to the SOS. Unless additional funds were provided to the AG by either legislative or administrative action, the AG would have to fund any additional services needed to assist the SOS within their existing level of resources.

*Background- Attorney General:* The AG's General Fund appropriation is \$15.4 M for FY 2008. The AG did not revert any of their General Fund appropriation at the close of FY 2007. As of the beginning of FY 2008, the AG had 31 vacancies worth \$311,302 in salary.

The AG has been assisting the Lake County Prosecutor's Office in criminal investigations of vote fraud. As of December 2007, 53 cases of criminal vote fraud in Lake County have been brought before trial courts. There have been 38 convictions, one 'not guilty' verdict, the death of an alleged fraud perpetrator while in process, 3 dismissals, and 10 cases still in process.

(Revised) *Increase in Election Law Criminal Penalties*- State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. However, any additional expenditures are likely to be small. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years. If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

(Revised) *Vote Centers*- The SOS and the Election Division would have additional administrative duties to designate either pilot or permanent vote centers. Both the SOS and Election Division would be able to carry out the provisions of the bill within their existing level of resources.

*Background-* The Indiana Election Division reverted \$21,218 to the General Fund at the end of FY 2007. The Division had two vacancies worth \$88,000 in salary as of November 2007.

**Explanation of State Revenues:** (Revised) *Increase in Election Law Criminal Penalties*- No change would likely occur in state revenue as a result of this bill since criminal fines and court fees are the same for either Class D or C felonies.

**Explanation of Local Expenditures:** *Voting While Under Lawful Detention*- The bill would require

absentee voter boards to travel to facilities holding persons under lawful detention. As a result, the administrative time of absentee voter boards may increase to travel to places of lawful detention and to process the additional absentee votes received.

*Beginning Date of Absentee Voting-* This provision would allow county election boards to more efficiently process voter registrations received on the last day of voter registration, which under current law coincides with the first day of absentee voting before the board.

(Revised) *Power of Secretary of State to Investigate-* Trial courts may realize an increase in caseloads if subpoenas are brought by the Secretary of State for review.

(Revised) *Eligibility Affidavits-* This provision could minimally increase the mailing costs and staff time required to process eligibility affidavits.

(Revised) *School Board Election at General Election-* This provision would affect counties that contain school corporations with board members that are elected during the primary. County election boards and circuit court clerks would likely make minimal adjustments to their election budgets to print school board member ballots for the general elections instead of primary elections.

Of 112 school corporations that have reported their board selection method for 2007, 78 of these boards are elected at primary and 22 elected at general elections.

(Revised) *Vote Centers-* The establishment of vote centers could reduce the expenditures needed to conduct an election, including payment of fewer poll workers and printing of poll books. However, start-up expenses such as the establishment of an electronic poll book database could offset some of the potential savings. The impact on local expenditures would depend on the adoption of ordinances by CEBs (under unanimous approval) and resolutions of approval by both the county executive and county fiscal body.

(Revised) *Alternate Polling Places-* The establishment of alternate polling places would require additional county expenditures of an unknown amount. The amount of expenditure would depend on the number of additional polling places established as a result of the bill.

*Background - Vote Centers-* Reduction of local expenditures would depend largely on the provision in the bill requiring one vote center per 10,000 active voters. Therefore, the number of vote centers actually established, under the bill, would depend on the number of active voters of counties. The following table depicts the number of precincts vs. the potential number of vote centers statewide (if all counties established vote centers).

Active Voters (as of 11/12/2007)	Minimum Vote Centers under bill (1 per 10,000 voters)	Inactive Voters (as of 11/12/2007)	Number of Active Precincts (as of 4/16/2007)	2004 General Election Registered Voters	2004 General Election Actual Voters Voting
4,492,351	449	496,404	5,648	4,296,602	2,512,142

The number of precincts above overstates the impact, as some precincts are housed together in the same polling place and rely on the same voting equipment. The numbers indicate that there would be an overall

reduction in the number of polling places compared to if every county maintained precincts at a ratio of approximately 800 active voters per precinct. Each precinct is required to maintain a separate precinct election board. Assuming a ratio of one center per 10,000 voters was generally followed, hundreds of precinct election boards would be eliminated by vote centers. However, actual savings would vary by county, as many counties are currently unable to find enough people to fully staff all of their precinct election boards during an election.

*Background- Tippecanoe County-* Tippecanoe County was one of two pilot counties designated by the Secretary of State after the passage of P.L. 164-2006 authorizing pilot vote centers. During the 2007 municipal election, Tippecanoe County established 22 vote centers replacing 52 precinct polling locations. The county was required by law to establish at least six vote centers. Tippecanoe County paid their vote center inspectors \$170 per day during the 2007 election, partially to include increased training time (four hours). Tippecanoe County had budgeted to pay their inspectors \$160 in a conventional precinct election (due to fewer hours of training).

In their forthcoming report to the Secretary of State, Tippecanoe County estimated that a precinct election would have required 260 full-time poll workers versus approximately 142 full-time (plus some additional part-time) poll workers utilized in vote centers during the 2007 municipal election. Additionally, Tippecanoe County paid \$10,750 for electronic polling software for the vote centers. As a result, the county did not have to produce paper versions, which were estimated to cost \$1,782 to produce. Poll book printing savings would break-even with the start-up cost of the poll book software within roughly six elections conducted by vote centers.

The requirement to produce and mail voting postcards, which a voter was supposed to show a poll worker before voting at a vote center (to prevent duplicate voting), cost the county \$12,465 to produce, a cost not required in a conventional precinct election. However, the additional expenditures generated by postcard production for the vote centers were mostly offset by the reduced part-time labor and absentee ballot production costs experienced in the election using vote centers.

**Explanation of Local Revenues:** (Revised) *Increase in Election Law Criminal Penalties-* No additional revenues would be expected since the court fees for Class D and Class C are the same.

**State Agencies Affected:** Auditor of State, Secretary of State, Treasurer of State; Election Division; Department of Correction.

**Local Agencies Affected:** County election boards, precincts, trial courts, local law enforcement agencies; schools.

**Information Sources:** Office of the Secretary of State; *Vote Fraud Task Force Winds Down With High Success Rate*, Times of Northwest Indiana, December 13, 2007; *State of Indiana HRM Detail Staffing Report*; State Budget Agency: *FY 2006 & FY 2007 General and Rainy Day Fund Summaries*; Department of Education databases; Linda Phillips, Tippecanoe County Clerk, 765-423-9326.

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